

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15578 of 1839 13th Street Limited Partnership, as amended, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 215 to allow accessory parking spaces elsewhere than on the same lot on which the principal use is located, and a variance from the 900 square feet per apartment requirement (Sub-section 401.2) to allow the conversion of a structure to an apartment house in an R-4 District at premises 1839 - 13th Street, N.W., (Square 275, Lots 10, 814, 825, and 828).

HEARING DATE:           October 9, 1991  
DECISION DATE:         October 9, 1991         (Bench Decision)

**FINDINGS OF FACT:**

1. The Notice of Public Hearing which advertised this case listed a variance from the use provisions (pursuant to Sub-section 330.5) of the R-4 District as being sought by the applicant. The Board has determined that relief from the above section is not required in this case. The basis for amending the relief required is a review of Section 330.5 of the Regulations which permits as a matter-of-right the conversion of a pre-May 12, 1958 building to an apartment house. The Whitelaw was previously used for apartment house purposes as verified by Certificate of Occupancy No. B-9541, dated January 17, 1958 which granted the use of all floors of the Whitelaw for apartment use.

2. The subject property involves two sites. The site of the proposed Whitelaw apartments (the principal site) is located on the southeast corner of the intersection of 13th and T Streets, N.W., in the R-4 zone. The site of the proposed accessory parking spaces is located in the interior of Square 274, south of the principal site, in the R-4 zone.

3. The principal site consists of approximately 11,700 square feet of lot area, and is rectangular in shape, except for a dog-legged projection at the site's southeast corner. The accessory parking lot site is rectangular in shape, and vacant, except for a masonry garage building on the south end of the property.

4. The principal site is developed with an existing 4 - story brick structure formerly occupied as a 40 plus unit apartment/hotel named the Whitelaw, constructed in 1918, and is currently being considered for landmark status as an historic structure.

5. The Whitelaw is presently vacant, boarded, and in a state

of disrepair. The building suffered major fire damage in 1981.

6. The area surrounding the subject site is predominately developed with single-family row dwellings, interspersed with apartment buildings, schools and churches. There is a small corner grocery store located across 13th Street from the principal site.

7. The applicant proposes to renovate the existing building on the principal site into 35 moderate income apartment units. There are planned to be 5 one bedroom units, 18 two bedroom units, and 12 three bedroom units in the project. Nine of the units will be designed as handicapped accessible. The proposed accessory parking lot will provide 16 parking spaces for the future tenants of the project.

8. The applicant is seeking variance relief from Sub-section 401.3 and Sub-section 3107.2 of the Zoning Regulations from the 900 square feet per apartment requirement which allows the conversion of a structure to a multiple dwelling in the R-4 District.

9. The applicant has testified that the variance relief is necessary to permit reasonable use of the property as the size of the existing structure, and lot causes a practical difficulty to the applicant in strictly adhering to the provision of Sub-section 401.3.

10. Combined, the lots on which the Whitelaw is located totals 11,700 square feet of land area. The size of the subject site is larger than the majority of the other lots in the subject square which are developed primarily with row dwellings. This factor combined with the size of the existing structure makes its use as a single family row dwelling or flat impractical.

11. The applicant's architectural witness testified that the Whitelaw contains approximately 40,400 square foot of gross building area. The strict application of the Zoning Regulations would only permit its conversion to 13 units, each containing over 3,000 square feet of gross floor area; producing units of an unreasonable and uneconomic size.

12. The longstanding residential use of the site, the size of the site, and size of the existing structure in relationship to neighboring lots, and the existence of a potentially historic building on the site are all unique situations and conditions affecting the property.

13. The applicant's architectural witness testified that approval of the variance will make possible the preservation of a building which has contributed to the City's rich architectural and social legacy. Adding 35 affordable apartment units to the City's housing role will not result in substantial detriment to the public

good, and will not substantially impair the intent, purpose or integrity of the Zoning Regulations.

14. Section 215 of the Zoning Regulations permits accessory automobile parking spaces in the R-4 District to be located elsewhere than on the same lot or part of a lot on which the main use is permitted, except for a one single-family dwelling provided that certain criteria are met.

15. In the subject case the applicant requests permission to locate accessory parking spaces to serve the new residents of the Whitelaw apartments on Lot 825, in the same square as the principal site.

16. The applicant's architectural witness described that the accessory lot historically was used by the Whitelaw for parking. The rectangular shaped parking lot consists of approximately 6,344 square feet of land area, and will be asphalt paved and striped to accommodate 16 automobiles. The parking lot will provide 4 spaces over the 12 spaces required by the Zoning Regulations.

17. The applicant proposes to locate accessory parking spaces in accordance with the special exception provisions of Sub-section 215.

18. The proposed accessory parking spaces will be located in an open area, and will not extend above the level of the adjacent finished grade. The proposed parking lot will be at the same level as the alleys which abut it on all sides.

19. The accessory parking spaces are located on Lot 825 approximately one hundred (100) feet south of the lot in which the Whitelaw (main use) is located.

20. The accessory parking lot is separated from the site of the Whitelaw by the alley system which bisects the interior of Square 275.

21. The applicant intends to fully comply with all applicable provisions of Chapter 23.

22. The principal building and use (Whitelaw Apartments) have occupied the site since its construction in 1918. As the applicant's architect has attested, there are significant structural conditions, which precludes the economical placement of the required parking spaces in the building. The site's inability to accommodate on-site spaces is further encumbered by the Whitelaws lot occupancy, and the restrictions governing changes to its facade given its likely historic status.

23. The site of the proposed accessory parking spaces has a

history of parking lot use. The subject site (Lot 825) is presently vacant, except for a few abandoned cars. The applicant's architect described that the parking lot as proposed will be a vast improvement over the vacant and overgrown lot which exist presently. The parking lot will be asphalt paved and stripped in accordance with Chapter 23 of the Zoning Regulations. The lot will be well lighted for the security of both the new residents of the Whitelaw and the surrounding properties. The lot will be landscaped in accordance with the site plan and maintained.

24. The proposed accessory parking lot is surrounded on all sides by public alleys, which affords excellent vehicular access without impacting on abutting properties.

25. The parking spaces will be pulled away from the 8 foot wide alley to afford a 14 foot driveway width, and more distance from the rear yards of the properties to the west. There is more than adequate room to maneuver cars in and out of the parking lot, without infringing on abutting private property. Access to the accessory spaces can be had from three entrances off of 12th Street, and two entrances off of 13th Street. The 30 foot wide core alley which abuts the parking lot affords the site adequate light and openness, adding to the security of its users.

26. The use of Lot 825 will not become objectionable due to noise or traffic. The users of the lot will be new residents of the community coming and going from work, church, and other typical daily routines. The 16 space accessory parking lot will act to lessen the demand for street curb parking spaces in the area. Additionally, the Whitelaw is located one block south of the recently opened U Street/Cardoza Metrorail station. The close proximity to the Metro, Downtown employment centers and conveniences, and major Metro bus routes along 14th Street will reduce tenant reliance on automobile use.

27. Before taking formal action on an application for use as an accessory parking lot, the Board shall have submitted the application to the D.C. Department of Public Works for review and report.

28. The D.C. Department of Public Works, by memorandum dated September 26, 1991, noted its review of the application, and stated that it has no objection to the application's request.

29. The D.C. Fire Department by memorandum dated September 25, 1991, stated that it has evaluated the request as listed in the application to determine its impact affecting emergency operations, and has no objection to the application.

30. The Board waived its' rules to allow the late filing of the report of Advisory Neighborhood Commission (ANC) 1B. ANC-1B by

letter dated October 9, 1991, states "that the subject property has been in a continuing deteriorating condition for several years. The improvement of this property in a manner that brings additional needed affordable housing to this area is not a violation with the housing aspects of an R-4 District. Moreover, this is a historically important building in the community and the commitment to co-sponsor with ANC 1B the designation of this building as a D.C. historic landmark further mitigates in favor of granting this application." The ANC requested the Board to grant the requested relief.

31. The Board waived its' rules to allow the late filing of the report of Advisory Neighborhood Commission (ANC) 2C. ANC-2C by letter dated October 9, 1991 states that it has reviewed the special exception and variance relief sought, and believes that the case should be granted. The ANC noted it is supportive of the restoration of the historic Whitelaw for 35 moderate income apartment units, and the plan to provide 16 accessory parking spaces.

32. The Cardoza-Shaw Neighborhood Association by letter dated October 8, 1991 supported the granting of the application to rehabilitate and preserve the Whitelaw.

33. The 1400 Block of S Street Block Council by letter dated October 8, 1991 states that it is in full support of the applicant's development project. The Council expressed approval of the preservation of the Whitelaw's architectural features.

34. The D.C. Office of Planning (OP), by memorandum dated October 1, 1991, and as testified at the public hearing, expressed support for the special exception and variance relief sought in the application. The OP found that the applicant was faced with a practical difficulty in complying with the strict interpretation of the Zoning Regulations. The OP found that exceptional and unique situations and conditions exists due to the size of the existing building and lot which makes compliance with the 900 square feet per unit requirements unreasonable, and uneconomical. The OP further found the applicant to have complied with all of the special exception provisions of Sub-section 215 and 3108.1 of the Zoning Regulations to allow accessory parking spaces. The Board concurs with the findings of the OP.

35. The Anthony Bowen Block Council by letter dated October 9, 1991, went on record as in support of the variance and special exception to allow the renovation of the Whitelaw into 35 residential units. The Council notes that "the resoration of the Whitelaw Hotel is key to the continued revitalization of our neighborhood."

36. Frank Smith, Jr., Councilmember and Chairman of the

Committee on Housing in a letter dated August 8, 1991, stated the Committee's support for the project.

37. A resident of 1815 - 13th Street, N.W. appeared to state concerns about the proposed accessory parking lot. The resident presented herself as a neighborhood property owner separated from the proposed accessory parking lot by the 8 foot wide public alley. She indicated that she was not opposed to the conversion of the Whitelaw to apartments or the project in general; but had concerns relative to the number of spaces provided and the design of the accessory parking lot. Concerns were expressed about noise, pollution and lights. The Board notes that the applicant expressed a willingness to work with the property owners in the square to mitigate any adverse condition from the parking lot.

38. The Board in addressing the concerns has considered her testimony in the context of the Zoning Regulations as it applies to the relief sought in this application, and finds that the plan for the accessory lot as presented by the applicant represents the best possible plan for mitigating any impacts on the surrounding properties, and is in the best interest of the public good. Under the proposed plan, the eight foot wide public alley separating the proposed lot and the residential properties along 13th Street, would in effect be widened to allow a greater area for vehicle maneuvering and access for both the users of the lot and the residents. The Board also finds that it is reasonable to conclude that emergency vehicle access to the rear of the residential properties would be improved. The location of the parking spaces farthest away on the lot from the residential properties is of greater advantage in reducing any potential impacts. Reducing the number of parking spaces to create screening or a buffer area would undermine the real need in providing the off-street parking and would render the proposed parking plan unworkable. Any buffer area or screening must be considered for all of the frontage along the 8 foot alley and would eliminate the eight parking spaces proposed to be accessible from the west. Such a reduction would not meet the required number of parking spaces under the Zoning Regulations.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicant is seeking a special exception and variance to operate an accessory parking lot and convert an existing building into a multiple dwelling respectively in the R-4 District. The granting of such special exception relief requires a showing through substantial evidence that the proposed use satisfies the criteria set forth in 11 DCMR 215 and 3108.1. The granting of the variance requires a showing of practical difficulty as spelled out in Sub-section 401.3 and Sub-section 3107.2 of the Zoning Regulations.

The Board concludes that the applicant has met the requisite burden of proof. The applicant meets the burden of proof required for variance approval under Sub-section 3107.2 and 401.3 of the Zoning Regulations and for special exception approval under Sub-section 3108.1 and Section 215 of the Zoning Regulations. The applicant has demonstrated that the relief necessary to facilitate the renovation of the Whitelaw for 35 moderate income apartment units will be in harmony with the general purpose and intent of the Zoning Regulations and Maps, and will not adversely affect the use of the neighboring properties. The applicant has proven that there are exceptional conditions and situations relating to the likely historic landmark designation of the property which creates practical difficulty and makes it practically difficult to comply strictly with the lot area provisions of Section 401.3. The Board further concludes that the applicant complies with all of the special exception provisions to allow accessory parking spaces in the R-4 District.

The Board further concludes that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map. Accordingly, it is hereby **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. Construction shall be in accordance with the plans marked as Exhibit No. 25-F of the record.
2. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
3. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
4. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
5. All parts of the lot shall be kept free of refuse or debris and be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
6. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
7. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the


BZA APPLICATION NO. 15578  
PAGE NO. 8

parking lot.

VOTE: 3-0 (Paula L. Jewell, Sheri M. Pruitt and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Acting Director

FINAL DATE OF ORDER: \_\_\_\_\_

NOV 4 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

A/15578Order/RCL/bhs



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15578

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 4 1981 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Richard Nero, Jr.  
Wilkes Artis Hedrick & Lane  
1666 K Street, N.W.  
Suite 1100  
Washington, D.C. 20006

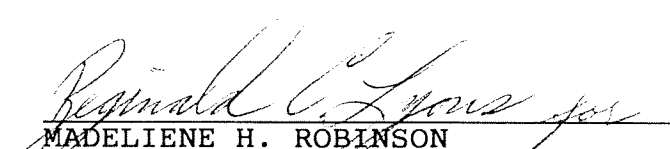
James M. Dickerson  
c/o MANNA, Inc.  
P.O. Box 26049  
Washington, D.C. 20001

S.M. Shefferman, General Partner  
1839 - 13th Street Limited Partnership  
1111 Spring Street  
Silver Spring, Maryland 20910

Virginia Khan  
1815 - 13th Street, N.W.  
Washington, D.C. 20009

Stanley Mayes, Chairperson  
Advisory Neighborhood Commission 1-B  
519 Florida Avenue, N.W.  
Washington, D.C. 20001

Clifford W. Waddy, Chairperson  
Advisory Neighborhood Commission 2-C  
1200 S Street, N.W., #201  
Washington, D.C. 20009

  
MADELIENE H. ROBINSON  
Acting Director

DATE: NOV 4 1981

15578Att/bhs